

752.226-2 Subcontracting with disadvantaged enterprises.

As prescribed in 726.7007, insert the following clause:

SUBCONTRACTING WITH DISADVANTAGED
ENTERPRISES (APR 1997)

NOTE: This clause does not apply to prime contractors that qualify as disadvantaged enterprises as described below.

(a) Not less than ten (10) percent of the dollar value of this contract shall be subcontracted to disadvantaged enterprises as described in paragraph (b) of this clause.

(b) Disadvantaged enterprises are U.S. organizations or individuals that are:

(1) Business concerns (as defined in FAR 19.001) owned and controlled by socially and economically disadvantaged individuals;

(2) Institutions designated by the Secretary of Education, pursuant to 34 CFR 608.2, as historically black colleges and universities;

(3) Colleges and universities having a student body in which more than 40 percent of the students are Hispanic American; or

(4) Private voluntary organizations which are controlled by individuals who are socially and economically disadvantaged.

(c) *Definitions.* (1) *Controlled by socially and economically disadvantaged individuals* means management and daily business are controlled by one or more such individuals.

(2) *Owned by socially and economically disadvantaged individuals* means at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged, or a publicly owned business having at least 51 percent of its stock owned by one or more socially and economically disadvantaged individuals.

(3) *Socially and economically disadvantaged individuals* has the same meaning as in FAR 19.001, except that the term also includes women.

(d) Contractors should require representations from their subcontractors regarding their status as a disadvantaged enterprise. Contractors acting in good faith may rely on such representations by their subcontractors.

(End of clause)

[56 FR 27210, June 13, 1991, as amended at 62 FR 40470, July 29, 1997]

752.226-3 Limitation on subcontracting.

As prescribed in 726.7008, insert the following clause:

LIMITATIONS ON SUBCONTRACTING (JUN 1993)

By submission of an offer and execution of a contract, the Offeror/Contractor agrees

that in performance of the contract, at least 51 percent of the cost of contract performance incurred for personnel shall be expended for employees of the contractor or employees of other disadvantaged enterprises eligible under the terms of 706.302-71. For the purposes of this clause, independent contractors hired by the contractor shall be considered employees of the contractor.

(End of clause)

[58 FR 42255, Aug. 9, 1993, as amended at 62 FR 40470, July 29, 1997]

752.228-3 Worker's compensation insurance (Defense Base Act).

As prescribed in 728.309, the following supplemental coverage is to be added to the clause specified in FAR 52.228-3 by the USAID contracting officer.

(a) The Contractor agrees to procure Defense Base Act (DBA) insurance pursuant to the terms of the contract between USAID and USAID's DBA insurance carrier unless the Contractor has a DBA self insurance program approved by the Department of Labor or has an approved retrospective rating agreement for DBA.

(b) If USAID or the contractor has secured a waiver of DBA coverage (see AIDAR 728.305-70(a)) for contractor's employees who are not citizens of, residents of, or hired in the United States, the contractor agrees to provide such employees with worker's compensation benefits as required by the laws of the country in which the employees are working, or by the laws of the employee's native country, whichever offers greater benefits.

(c) The Contractor further agrees to insert in all subcontracts hereunder to which the DBA is applicable, a clause similar to this clause, including this sentence, imposing on all subcontractors a like requirement to provide overseas workmen's compensation insurance coverage and obtain DBA coverage under the USAID requirements contract.

[53 FR 50631, Dec. 16, 1988, as amended at 54 FR 16122, Apr. 21, 1989; 56 FR 67226, Dec. 30, 1991]

752.228-7 Insurance—liability to third persons.

As prescribed in 728.307-2(c), the following paragraph is to be added to the clause specified in FAR 52.228-7 as either paragraph (h) (if FAR 52.228-7 *Alternate I* is not used) or (i) (if FAR 52.228-7 *Alternate I* is used):

() *Insurance on private automobiles.* If the Contractor or any of its employees or their